

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
MICHAEL SPERBER,

Plaintiff,

-against-

LA FITNESS INTERNATIONAL,

Defendant.
-----X

ORDER

CV 05-0908 (ADS)(WDW)

WALL, Magistrate Judge:

Before the court is a letter motion by the defendant LA Fitness International, seeking an order compelling the pro se plaintiff, Michael Sperber, to comply with his discovery obligations, including appearing at his deposition. The motion, which was originally filed as a letter and served on Mr. Sperber on December 6, is unopposed as of the date of this order. The motion is granted.

The defendant's letter documents the plaintiff's complete failure to comply with any of his discovery obligations, including his repeated postponements and cancellations of scheduled depositions. **Mr. Sperber is ordered to produce his initial disclosures and his answers to the plaintiff's document requests, including copies of responsive documents, no later than January 20, 2006, and to appear for his deposition no later than February 6, 2006.**

If he fails to do so, the defendant shall notify the court, and the undersigned will immediately recommend to Judge Spatt that the action be dismissed with prejudice, pursuant to the factors set forth in *LeSane v. Hall's Security Analyst, Inc.*, 239 F.3d 206 (2d Cir. 2001). The result of a dismissal with prejudice, should Judge Spatt accept the recommendation, would be the final disposition of the plaintiff's claims against the defendants in this lawsuit, subject only to an

appeal to the Second Circuit. The plaintiff is strongly urged to consider this result in weighing his options, and to comply with his discovery obligations as ordered. A copy of this order is being mailed by the court to Mr. Sperber on the date below to his address of record, 59 Audrey Avenue, Plainview, NY 11803.

Dated: Central Islip, New York
December 27, 2005

SO ORDERED:

/s/ William D. Wall
WILLIAM D. WALL
United States Magistrate Judge